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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,616	06/25/2003	Mark Verdijk	VERD3003/JEK	2491

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BACON & THOMAS, PLLC  
625 SLATERS LANE  
FOURTH FLOOR  
ALEXANDRIA, VA 22314

EXAMINER
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THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/602,616	Applicant(s) VERDIJK, MARK	
	Examiner Hugh B. Thompson II	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Response to Arguments*

4157 Applicant's arguments, see pages 6-10 of the Amendment filed <sup>10-29-04</sup>~~11-8-04~~, with respect to the rejection(s) of claim(s) 1-11 under Section 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the references below. The rejection based upon Skyba has been drawn to a different claim set and clarified.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 4, 5, 6, and 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 2, there is no antecedent basis for "the far ends thereof". Further, are the rungs of claim 2, the same of claim 1? If so, then they should be referred to as "the rungs."

With respect to claim 4, it is unclear as to if each/all of the hook elements have a pen. Note also that protruding parts and hook elements have been presented as equivalents in the claims. The claim may be allowable if properly recited.

With respect to claim 6, only one "downward directed pen" has been set forth in claim 3.

With respect to claim 8, there is no antecedent basis for "the second hook element". Further, the flange of the scaffold element is not a part of the claimed invention, thus the relationship between the groove and the thickness of the flange is given no patentable weight. Claims 9 and 10 recite a similar ambiguity.

With respect to claim 9, it is unclear as to the number of parts/hook elements required. Note that a plurality of "protruding parts or hook elements" has been recited in claim 1. Claim 9 recites "*the* protruding part or hook element." Claim 11 recites a similar ambiguity.

With respect to claim 10, is "the wedge-shaped pen" the same as the one "downward directed pen" of claim 3? The claim may be allowable if properly recited.

With respect to claim 11, there is no antecedent basis for "the bottom/top of the support."

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Skyba #5,109,954. Skyba discloses a ladder comprised of vertical supports 22, 24, 26, protruding parts/hook elements 48A, 48B, 48C, 48D, which are provided on upper and lower portions of the supports and have passages there-through, spaced V-shaped brackets 20, having step surfaces thereon, wedge-shaped pivoting downward pen element 78, having a groove therein as best seen in Figure 16, and which is provided on element 48A.

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Claims 1-3, 6-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hogan #1,305,107. Hogan discloses a ladder comprised of vertical supports 1, 2, protruding parts/hook elements 6, 13, 14, 16, which are provided on upper and lower portions of the supports and have passages there-through, spaced V-shaped brackets 17, having step surfaces thereon, and wedge-shaped (downward portion) pen element of hook element 16, having a groove therein as best seen in Figures 1 and 2, and a groove defined between elements 13 and 14.

Claims 1, 2, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Wheeler #4,577,726. Wheeler discloses a ladder 2 comprised of spaced V-shaped rungs 20, vertical support 10, 18, and spaced protruding parts 34, 36, located along the length of the support 10, 18.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated Glover #1,028,453. Glover discloses a ladder escape comprised of vertical support C, spaced V-shaped rungs D', and protruding parts A.

Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated Clark #4,139,079. Clark discloses a ladder 22 comprised of vertical supports 12, 112, spaced rungs 24, and spaced protruding parts 54, 62, 64, associated with each rung.

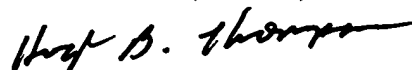
Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated Daubenspeck #1,191,405. Daubenspeck discloses a ladder escape comprised of vertical supports 2, 3, spaced rungs 5, and spaced protruding/hook parts 6-9, 11.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (703) 305-0102. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

December 29, 2004